

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ESTEVAN PHILLIP ROMERO,

Petitioner/Plaintiff,

v.

Civ. No. 12-1082 WJ/GBW

UNKNOWN PERSONS and THE ATTORNEY
GENERAL OF THE STATE OF NEW MEXICO,

Respondents/Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

This matter comes before the Court on Petitioner's Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody. *Doc. 1.* The Magistrate Judge filed his Proposed Findings and Recommended Disposition (PFRD) on August 12, 2013. *Doc. 14.* He found that Petitioner had filed a mixed petition containing both exhausted and unexhausted claims, and recommended that Petitioner be given thirty days to voluntarily dismiss his unexhausted claims or to provide evidence that he has properly exhausted those claims in state court. The Magistrate Judge recommended dismissal of Plaintiff's action without prejudice if, after thirty days, Petitioner had not provided evidence of exhaustion or dismissed his unexhausted claims.

Plaintiff has filed no objections to the PFRD. Upon review of the record, I concur with the Magistrate Judge's findings and recommendations, and the Magistrate Judge's Proposed Findings and Recommended Disposition, *doc. 14*, is ADOPTED.

Wherefore, IT IS HEREBY ORDERED that, as to Petitioner's Fourteenth Amendment claim raised in Ground One and all claims raised in Grounds Five, Six, Seven, Eight, and Nine, he must, for each claim, either present evidence that it has been properly exhausted before the state court, or file a one-page certification stating that he has elected to delete the claim from his Petition. The evidence or certification must be filed within thirty days from the date of this order. If Petitioner fails to do so, he will be deemed to have elected to return to state court to present his unexhausted claims, and his Petition will be dismissed. Petitioner is advised that, should his Petition be dismissed, the federal habeas one-year limitations period would apply to the refiling of any of his claims, even those which are now exhausted and properly before this Court.



UNITED STATES DISTRICT JUDGE